

**THIRTEENTH DAY**

(Thursday, February 5, 1959)

The Senate met at 10:30 o'clock a.m., pursuant to adjournment, and was called to order by the President.

The roll was called and the following Senators were present:

Aikin	Lane
Bradshaw	Moffett
Colson	Moore
Crump	Owen
Dies	Parkhouse
Fly	Phillips
Fuller	Ratliff
Gonzalez	Reagan
Hardeman	Rogers
Hazlewood	Secrest
Herring	Smith
Hudson	Weinert
Kazen	Willis
Krueger	Wood

**Absent—Excused**

Baker	Roberts
Martin	

A quorum was announced present.

Reverend W. H. Townsend, Chaplain, offered the invocation as follows:

O Lord, no man lives to himself and no man dies to himself. We thank Thee for friends who have trusted us and given to us places of honor and service. Forbid that we should ever disappoint Thee or our friends, but keep us steadfast, unmovable, always abounding in the word of the Lord, for as much as we know our labor in the Lord is not in vain. In His name we pray. Amen.

On motion of Senator Aikin, and by unanimous consent, the reading of the Journal of the proceedings of yesterday was dispensed with and the Journal was approved.

**Leaves of Absence**

Senator Baker was granted leave of absence for today on account of important business on motion of Senator Reagan.

Senator Martin was granted leave of absence for today on account of important business on motion of Senator Aikin.

Senator Roberts was granted leave of absence for today on account of

important business on motion of Senator Owen.

**Message from the House**

Hall of the House of Representatives,  
Austin, Texas,  
February 5, 1959.

Hon. Ben Ramsey, President of the Senate:

Sir: I am directed by the House to inform the Senate that the House has passed the following:

S. C. R. No. 3, Be it resolved by the Senate, the House of Representatives concurring, that the Joint Rules of the Senate and the House of Representatives of the 55th Legislature, as printed in the Legislative Manual of the 55th Legislature, be and the same are hereby adopted as the permanent Joint Rules of the Senate and House of Representatives of the 56th Legislature.

S. C. R. No. 11, In memory of A. B. Hooks.

Respectfully submitted,

DOROTHY HALLMAN,  
Chief Clerk, House of Representatives

**Reports of Standing Committees**

Senator Lane submitted the following reports:

Austin, Texas,  
February 5, 1959.

Hon. Ben Ramsey, President of the Senate.

Sir: We, your Committee on Jurisprudence, to whom was referred S. B. 48, have had the same under consideration, and we are instructed to report it back to the Senate with the recommendation that it do pass and be printed.

LANE, Chairman.

Austin, Texas,  
February 5, 1959.

Hon. Ben Ramsey, President of the Senate.

Sir: We, your Committee on Jurisprudence, to whom was referred S. B. 108, have had the same under consideration, and we are instructed to report it back to the Senate with the recommendation that it do pass and be printed.

LANE, Chairman.

Austin, Texas,  
February 5, 1959.

Hon. Ben Ramsey, President of the Senate.

Sir: We, your Committee on Jurisprudence, to whom was referred S. B. 57, have had the same under consideration, and we are instructed to report it back to the Senate with the recommendation that it do pass as amended and be printed.

LANE, Chairman.

Senator Aikin submitted the following reports:

Austin, Texas,  
February 5, 1959.

Hon. Ben Ramsey, President of the Senate.

Sir: We, your Committee on Counties, Cities and Towns, to whom was referred S. B. No. 67, have had the same under consideration, and we are instructed to report it back to the Senate with the recommendation that it do pass and be not printed.

AIKIN, Chairman.

Austin, Texas,  
February 5, 1959.

Hon. Ben Ramsey, President of the Senate.

Sir: We, your Committee on Counties, Cities and Towns, to whom was referred S. B. No. 92, have had the same under consideration, and we are instructed to report it back to the Senate with the recommendation that it do pass and be printed.

AIKIN, Chairman.

Austin, Texas,  
February 5, 1959.

Hon. Ben Ramsey, President of the Senate.

Sir: We, your Committee on Counties, Cities and Towns, to whom was referred S. B. No. 79, have had the same under consideration, and we are instructed to report it back to the Senate with the recommendation that it do pass and be not printed.

AIKIN, Chairman.

Austin, Texas,  
February 5, 1959.

Hon. Ben Ramsey, President of the Senate.

Sir: We, your Committee on Counties, Cities and Towns, to whom was referred S. B. No. 102, have had the same under consideration, and we are

instructed to report it back to the Senate with the recommendation that it do pass and be not printed.

AIKIN, Chairman.

### Senate Bills and Resolutions on First Reading

The following bills and resolutions were introduced, read first time and referred to the committees indicated:

By Senator Parkhouse:

S. B. No. 109, A bill to be entitled "An Act amending subparagraph (d) of paragraph (1) of Section 1, Article 3.50, subchapter E, of Senate Bill No. 236, Chapter 491, Acts of the Fifty-second Legislature, Regular Session, 1951, as amended by House Bill 123, Chapter 146, Acts of the Fifty-fourth Legislature, Regular Session, 1955, so as to provide that the limitations thereof as to amounts of insurance on any employee shall not apply to amounts of insurance issued on other than the term plan in connection with a pension plan which amounts do not exceed the amounts required at normal retirement date to provide the pension specified by the plan."

To the Committee on State Affairs.

By Senator Herring:

S. B. No. 110, A bill to be entitled "An Act providing that in cases less than capital the court shall have discretion to permit the jurors to separate; and that in capital cases the court may permit the jurors to separate up until the jury has been completed; and that after the completion of the jury in capital cases the court may then, with the consent of the State's attorney and the defendant, permit the jury to separate, but further providing that such agreement or refusal as to such consent to separate must not be referred to by either party in the jury's presence; repealing Article 668 of the Code of Criminal Procedure of 1925 and repealing that portion of Article 623 of the Code of Criminal Procedure of 1925, as amended in 1955, in conflict herewith and any other law or statute in conflict herewith, and declaring an emergency."

To the Committee on Jurisprudence.

By Senator Herring:

S. B. No. 111, A bill to be entitled "An Act amending Article 687 of the Code of Criminal Procedure of Texas

of 1925 by providing that when pending the trial of any felony case one juror may die or be disabled from sitting at any time before the charge of the court is read to the jury, the remainder of the jury shall have the power to render and return the verdict; and declaring an emergency."

To the Committee on Jurisprudence.

By Senator Dies:

S. B. No. 112, A bill to be entitled "An Act amending Article 620 of the Code of Criminal Procedure of Texas of 1925, Chapter 3, Title 8, on the formation of the jury in capital cases by providing that the jury shall be selected as in ordinary felony cases when the death penalty is not sought by the State; and declaring an emergency."

To the Committee on Jurisprudence.

By Senator Secrest:

S. B. No. 113, A bill to be entitled "An Act relative to the regulation of rates for certain casualty insurance including fidelity, surety and guaranty bonds, to rates, rating plans, merit rating, and coverages for all forms of motor vehicle insurance, and to rating organizations, providing for a maintenance tax; repealing Subchapters A and B of Chapter 5 (Article 5.01 to 5.24 inclusive) of the Insurance Code as amended; and enacting in their place a new Subchapter A of the Insurance Code; and declaring an emergency."

To the Committee on Insurance.

By Senator Owen:

S. B. No. 114, A bill to be entitled "An Act validating the organization and creation of county-wide hospital districts created or attempted to be created by authority of Chapter 266, Acts of the 53rd Legislature as amended by Chapter 257, Acts of the 54th Legislature, validating all acts of the Commissioners' Courts of such counties in ordering an election or elections for the creation of such districts and in canvassing the returns and declaring the result thereof; validating such election or elections; providing that this Act shall apply only to such eligible hospital districts in which an election has been held and which resulted in the adoption of the statutory proposition for the creation of such district, the levying of the tax and the assumption of hos-

pital bonds; providing that this Act shall not apply to any district involved in litigation, if such litigation is ultimately determined against the validity of the district; and declaring an emergency."

To the Committee on Counties, Cities and Towns.

By Senator Dies:

S. B. No. 115, A bill to be entitled "An Act relating to lump-sum settlement and payment of workmen's compensation claims; amending Section 15 of Article 8306, Revised Civil Statutes of Texas, 1925; providing a saving clause; repealing all laws in conflict; and declaring an emergency."

To the Committee on Jurisprudence.

By Senator Hazlewood:

S. B. No. 116, A bill to be entitled "An Act relating to and fixing minimum and maximum salary of the Official Shorthand Reporter for the 47th Judicial District of Texas; with saving clause; and declaring an emergency."

To the Committee on State Affairs.

By Senator Hazlewood:

S. B. No. 117, A bill to be entitled "An Act amending Sections 3, 5, 6, 12, 13, 14 and 17, of Senate Bill 44, Acts of the 48th Legislature, Regular Session, 1943, Chapter 204, Page 313, as amended, codified in Vernon's as Article 2338-1, Vernon's Civil Statutes; providing for transfers of certain cases in juvenile courts from the jurisdiction of juvenile courts to the jurisdiction of the other courts in this state; providing that certain delinquent children shall be subject to the penal laws and criminal prosecution the same as if they were adults; prescribing the power, authority and jurisdiction of juvenile courts; prescribing the power, authority and duties of various State agencies handling delinquent children; making other provisions relating thereto; providing a repealing clause; providing a severability clause; and declaring an emergency."

To the Committee on Jurisprudence.

By Senator Hazlewood:

S. B. No. 118, A bill to be entitled "An Act relating to liability to pay

poll taxes; amending Section 41 of the Election Code of the State of Texas, compiled in Vernon's Revised Civil Statutes of Texas as Election Code Article 5.09; and declaring an emergency."

To the Committee on Privileges and Elections.

By Senator Hazlewood:

S. B. No. 119, A bill to be entitled "An Act to amend Article 2757, Revised Civil Statutes of Texas, of 1925, as amended, lowering the population necessary to incorporate common school districts; and declaring an emergency."

To the Committee on Education.

By Senator Willis:

S. J. R. No. 6, Proposing an amendment to Section 49-b, Article III of the Constitution of Texas, increasing to three and one-half per cent (3½%) the maximum permissible interest rate on all bonds hereafter issued by the Board; providing for an election and the issuance of a proclamation therefor.

To the Committee on Constitutional Amendments.

By Senator Willis:

S. J. R. No. 7, Proposing an amendment to Section 49-b, Article III of the Constitution of Texas, so that the total amount of bonds or obligations that may be issued by the Veterans' Land Board shall be increased to Three Hundred Million Dollars (\$300,000,000); providing for the issuance of said bonds or obligations and the conditions relating thereto and the use of the Veterans' Land Fund; providing for an election and the issuance of a proclamation therefor.

To the Committee on Constitutional Amendments.

#### Senate Concurrent Resolution 12

Senator Rogers offered the following resolution:

S. C. R. No. 12, Granting The American Title and Insurance Company permission to sue the State of Texas.

Whereas, The American Title and Insurance Company, a Florida corporation holding a permit to do business in the State of Texas, alleges that on or about November 9, 1957,

an automobile owned and driven by Lloyd F. Elam and insured by the American Title and Insurance Company was involved in a collision with a truck owned by the State Highway Department of the State of Texas and being driven by an employee of the State Highway Department, the collision having occurred on Federal Highway No. 287 within the city limits of Memphis, Texas; that the accident resulted solely from the negligence of the driver of the State Highway Department truck; that the American Title and Insurance Company as insurer has paid to Mr. Elam the damages suffered by him as a result of the collision and that it has acquired by subrogation a cause of action against the party or parties legally liable for such damages; and that it desires to bring suit against the State of Texas and the State Highway Department of the State of Texas to recover the damages suffered by it as insurer; now, therefore, be it

Resolved, By the Senate of the State of Texas, the House of Representatives concurring, That the American Title and Insurance Company be and it is hereby granted permission to file a suit against the State of Texas and the State Highway Department of the State of Texas in the proper court having jurisdiction thereof, at any time within two years from the date this Resolution becomes effective, to recover the damages, if any, to which it is entitled as a result of the accident herein alleged. In the event such suit is filed, service of citation and other necessary process shall be upon the Chairman of the State Highway Commission and the Attorney General of the State of Texas. The suit shall be tried as provided by law for other civil cases, and each of the parties shall have the right of appeal. And be it further

Resolved, That nothing herein shall be construed as an admission of liability on the part of the State of Texas or on the part of the State Highway Department, or of any fact herein alleged, it being understood that the sole purpose of this Resolution is to grant permission to bring suit; and it is specifically provided that the facts upon which recovery is sought must be proved in court as in other civil cases.

The resolution was read and was

referred to the Committee on Jurisprudence.

#### **Senate Resolution 50**

Senator Hardeman offered the following resolution:

Be it Resolved by the Senate of the State of Texas, That the President of the Senate designate a member of the Senate of Texas to read The Declaration of Independence adopted by "The Great Convention" at Washington-on-the-Brazos on March 2, 1836, at an appropriate time during the Session of the Senate on Monday, March 2, 1959.

The resolution was read and was adopted.

#### **Resolution Signed**

The President signed in the presence of the Senate after the caption had been read, the following enrolled resolution:

S. C. R. No. 10, In memory of Mrs. Sam Johnson.

#### **Prayers of Chaplain Ordered Printed in Journal**

On motion of Senator Colson and by unanimous consent the prayers of the Chaplain, Reverend W. H. Townsend, were ordered printed in the daily Senate Journals.

#### **Sente Bill 48 Ordered Not Printed**

On motion of Senator Smith and by unanimous consent S. B. No. 48 was ordered not printed.

#### **Report of Standing Committee**

Senator Aikin submitted the following report:

Austin, Texas,

February 5, 1959.

Hon. Ben Ramsey, President of the Senate.

Sir: We, your Committee on Counties, Cities and Towns, to whom was referred S. B. No. 114, have had the same under consideration, and we are instructed to report it back to the Senate with the recommendation that it do pass, and be not printed.

AIKIN, Chairman.

#### **Senate Bill 114 Ordered Not Printed**

On motion of Senator Owen and by unanimous consent S. B. No. 114 was ordered not printed.

#### **Adjournment**

On motion of Senator Hardeman the Senate at 10:53 o'clock a.m. adjourned until 10:30 o'clock a.m. on Monday, February 9, 1959.

#### **Record of Votes**

Senators Krueger, Kazen and Phillips asked to be recorded as voting "Nay" on the motion to adjourn.

**In Memory of**  
**Dr. E. H. Hereford**

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Senator Willis offered the following resolution:

(Senate Resolution 51)

Whereas, The death of Dr. E. H. Hereford, of Arlington, Texas, marks the passing of a great humanitarian, teacher, and intellectual leader from his high place in the State of Texas and the United States of America; and

Whereas, Dr. Hereford was President of Arlington State College; and

Whereas, He gave unstintingly of his time and talents, indeed his very life, in the service of Church, State and Society for the uplift of mankind; and

Whereas, He is survived by his wife, Mrs. Ruth Hereford, Arlington; one son, Dr. Carl Hereford, Austin; one daughter, Mrs. Nettie Ruth Miller, Dallas; two sisters, Mrs. Lou Ward, Lometa, and Mrs. Nettie Willmann, Liberty Hill; and six brothers, Van Hereford, Opp Hereford, R. Hereford, Lometa, H. S. Hereford, Burnet, Carl Hereford, Gatesville, and Clarence Hereford, Porterville, California; and

Whereas, It is the desire of the Senate to pay tribute to the memory of this distinguished citizen, whose constructive influence pervades Arlington State College, the area served by the college, and students and friends of the college and of Dr. Hereford throughout the state and nation; now, therefore, be it

Resolved, by the Senate of Texas, That we extend our sincere sympathy to the family of Dr. E. H. Hereford; that a copy of this resolution be sent to each member of his family; that a page in today's Journal be devoted to his memory; and that when the Senate adjourns today, it do so in memory of Dr. E. H. Hereford.

WILLIS

Signed—Ben Ramsey, Lieutenant Governor; Aikin, Baker, Bradshaw, Colson, Crump, Dies, Fly, Fuller, Gonzalez, Hardeman, Hazlewood, Herring, Hudson, Kazen, Krueger, Lane, Martin, Moffett, Moore, Owen, Parkhouse, Phillips, Ratliff, Reagan, Roberts, Rogers, Secrest, Smith, Weinert, Wood.

The resolution was read.

On motion of Senator Secrest and by unanimous consent the names of the Lieutenant Governor and the Senators were added to the resolution as signers thereof.

The resolution was then adopted by a rising vote of the Senate.